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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,021	04/25/2001	Necdet Uzun	12801-005001	7231
33031	7590	12/08/2004	EXAMINER	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			VINCENT, DAVID ROBERT	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/843,021

Applicant(s)

UZUN, NECDET

Examiner

David R Vincent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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Response to Arguments

1. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection. The examiner inadvertently referenced the link between 106 and 105 when referring to the fifth and sixth medias, so the examiner fixed this oversight with the following non final rejection.

The applied art clearly discloses at least four fiber rings (col. 12) and in Fig. 11, Shiragaki discloses the rings being labeled as 101-104. Two of the rings transmit data in one direction and two in the other. Two the rings are working rings "W" and two are protection rings "P". One of ordinary skill in the art would readily see that Shiragaki meets the claimed invention and that arguing over semantics such as labels of nodes and paths is not in the applicant's best interest.

In re pg. 3 the applicant argues the fifth and sixth media were referenced improperly.

In response, the examiner now has referenced the proper paths between nodes reading on nodes labeled as node one and node four, although one of ordinary skill in the art could have easily seen that this was an oversight and that changing what node read on what nodes changes nothing.

In re pg. 3, the applicant argues the picture of a circuit (Fig. 11) failed to show working paths between two nodes.

In response, one of ordinary skill would understand that the same rings are installed between all the nodes not just part of the network, and Shiragaki clearly discloses at least four rings wherein two of the rings transmit data in one direction and two in the other. Two the rings are working rings "W" and two are protection rings "P" (col. 12, lines 6-14).

In re pg. 3 the applicant argues in response to detecting faults the examiner wrote faults can any where, as if one would not understand that the examiner inadvertently left out the work occur. This oversight was also fixed. One of ordinary skill would understand that the whole purpose of a four ring network like the applied, is to mitigate the problems experienced and to route around any fault in any line. One of ordinary skill would see that the applied art network can deal with a plurality of faults in a plurality of rings.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof

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by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Shiragaki (US 6,657,952).

Regarding claims such as 1, 12 it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Shiragaki discloses first and second rings (e.g., Figs. 1, 11, 15), a first node (e.g., 107, Fig. 11), a second node (e.g., 106), a first media (e.g., 101 working/W or 104 protection/P path from 107 to 106), a second media (e.g., 103 W from 106 to 107), a third node (e.g., 105), a third media (e.g., 101 W or

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104 P from 106 to 105), a fourth media (e.g., 102 P or 103 W from 105 to 106), a fourth node (e.g., 108), a fifth media (e.g., 104 P or 101 W from 108 to 107), a sixth media (e.g., 102 P or 103 W from 107 to 108), second node (e.g., 106) "operable to" receive data from the fourth media (e.g., 102 P or 103 W from 105 to 106), detect a first fault (Figs. 11-13, especially 1250, Fig. 12; 1301, Fig. 13A and respective disclosure, see e.g., col. 12) in the second media (e.g., path labeled 11 or 103 W from 106 to 107) and forward data from the third node (e.g., 105) received on the fourth media (e.g., 102 P or 103 W from 105 to 106) to the third node (e.g., 105) on the third media (e.g., 101 W or 104 P from 106 to 105), first node (e.g., 107) "operable to" receive data on the fifth media (e.g., 104 P or 101 W from 108 to 107) forward data from the fourth node (e.g., 108) to the second node (e.g., 106) on the fifth media (e.g., 104 P or 101 W from 108 to 107) and the first media (e.g., 101 W or 104 P path from 107 to 106),

first "operable to" multiplex data (1211-1214, Fig. 12 and respective disclosure) and upon detecting a fault forward data to the fourth node (e.g., 108) on the sixth media (e.g., 102 P or 103 W from 107 to 108), first node "operable to" forward muxed data to from the fifth media (e.g., 104 P or 101 W from

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108 to 107) to the second node (e.g., 106) on the first media (e.g., 101 W or 104 P path from 107 to 106),


second node (e.g., 106) "operable to" mux first data into the second node (Fig. 12 and respective disclosure) on a first ring (col. 12, especially lines 6-14) to a second ring (using four rings the nodes can receive data from one ring and send it out on a second ring whether it be a working to protection transfer or working to extra data ring, col. 12), using fibers (col. 12), wrapping transit data back to third node (using protection rings or any of the other four ring disclosed, col. 12 faults can occur any where, Figs. 11, 15; summary), using fiber as a media (col. 4, lines 39-50; SONET), second fault (one or more faults can occur any where, Figs. 11, 15; summary, col. 12), add drop mux and multiplexing and demultiplexing host data with transit data (ADM, Fig. 1 and respective disclosure), intelligent protection switching data (using OAM cells, e.g., col. 5, lines 39-67), broadcast fault data (OAM cells are sent out in a broadcast environment, a ring which all stations listen to, e.g., col. 8, lines 1-14), a counter (using timeouts, e.g., cols. 13-14 or Figs. 13-14), counter is "operable to" adjust (go to zero) when data is not received (Figs. 13-14), detect idle frame (not further defined, reads on any frame, SONET frame or ATM or OAM cells, cols. 1-14), as specified in claims 1-25.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 571 272 3080. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571 272 3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David R Vincent
Primary Examiner
Art Unit 2661

December 6, 2004